principally the long-distance carriers, are using to try and keep us from making that showing to the FCC. This is their interpretation of Subsection 271(c) and, in particular, the so-called "B" Track and the "A" Track. Their view of the statute is basically to roll the separate statute requirements of Section 271(c)(1)(A), (c)(1)(d) and (c)(2) all together and say that these two mutually exclusive approaches for getting into long distance.

The "B" track, under their view, doesn't really exist. That is because they say that it was closed the moment Southwestern Bell received a request for interconnection network access for just about anyone. Some say "any providers." Others suggest that it must be provided that at some unspecified point in the future might provide facilities-based service, but, of course, we don't know quite who that is going to be. The one thing that is clear, they all agree that neither Southwestern Bell nor really any other developed company anywhere in the country can ever use the "B" Track because it closed the moment any carrier requested access or happened almost immediately after the Act was passed. And, in fact, it happened even before the "B" Track even opened up under the statute. Under the statute, you can file an Application under "B" on December 28, 1996 or sometime thereafter. But under their interpretation, this closed even before it opened.

With respect to the so-called "A" Track, they made two

arguments. The first is that Southwestern Bell needs to lose market share before it can get into long distance. It needs to lose local market share.

The second thing, Southwestern Bell actually has to sell everyone of the 14 checklist items to a local competitor. These two theories about the "A" Track and the "B" Track really have one thing in common; that is, Southwestern Bell's entry into long distance is at the mercy of local entry decisions of our competitors. But that is just not the structure which Congress adopted. In fact, Congress specifically rejected the very theories that are being advanced now as a supposed interpretation of the statute.

Some of the amendments which were proposed and supported by the long-distance industry and rejected by Congress were the Hollings Test, which was that there be actual and demonstrable local competition before a Bell Company can enter the market. Senator Hollings said "that that wasn't going anywhere," were his words, and he withdrew it.

The Kerrey Amendment, which would have required that local competitors were incapable of providing a substantial number of business and residential customers with service. That was defeated in the Senate.

The House amendment which would have required local competitors to offer service to 10 percent of the Bell company's customers. That was rejected.

The only test that exists in the statute is the (C) test, the (C)(1) and (C)(2). That is a couple of very specific requirements. First under (C)(1), we can satisfy that requirement if under "A" we provide interconnection and network access to a competitor who provides services to businesses and residences and offers service exclusively or predominately over its own facilities.; Or, under the "B" Track, the (C)(1)(d), we can satisfy (C)(1) by having an effective statement of terms and conditions, like we have in Oklahoma--we have had that since March 17--and offering interconnection network access through that.

The second requirement (C) (2) which is that the checklist is satisfied, whether we are proceeding under the STC under our interconnection agreements with competitors we must be providing or offering interconnection access to satisfy the checklist. Now to make the point doubly clear that it didn't want any of these actual competition or marketshare tests to be adopted, Congress adopted another provision, which is 271(d)(4), which says the FCC and therefore by implication this Commission in its comments, may not add additional items onto the checklist. So there can be no requirements as a prerequisite to making a public interest showing that--

MR. MOON: Your Honor, I would like to object as far as what the Act actually said. It doesn't specifically say that. It says it cannot expand or limit the checklist items.

I think that makes a material difference to the meaning of (d)(3) or (d)(4).

MR. SCHLICK: I would rely on the statute and let it speak for itself, Your Honor.

THE COURT: All right. Mr. Schlick, I have read everything that you have filed. You are almost going word for word in some points. If you have some additional thought, I'd better hear that, but please don't repeat what I have already read, because I am going to accept that into the record.

MR. SCHLICK: I will attempt to do that.

We would like to respond specifically to the arguments about 271(C)(1)(a) and how Brooks Fiber satisfies that. Please stop me if that is familiar to you.

Brooks Fiber has told the Commission that it serves business customers exclusively over its own facilities. It also says in its tariffs on file with the Commission here and in its interconnection agreement with Southwestern Bell that it is offering exclusively facilities-based service to residential customers as well as business. So we think we have the "A" provider.

Objections have been made that the number of customers that Brooks Fiber is serving is not significant. That the size of the network is not big enough. We think there is absolutely nothing in the statute that will support that; it is not relevant to the test. We don't think you need to consider the

dominance argument here because we have an exclusively facilities-based provider; but if you did, the predominance would be satisfied because they are using, with respect to all of their customers overwhelming facilities that are their own under any view.

One point I want to be sure that we are clear on, that we believe that we qualify under "A" and "B". If this Commission and the FCC should find that we don't have a facilities-based carrier, then we would proceed under "B". We believe the STC satisfies the conditions of the checklist. So it is really not necessary that there be a choice here.

I would like to focus very briefly on the test for "B" and when we are able to file under "B", because that is something that has received quite a bit of attention.

The relevant language here is the "such provider" language of "B" which says that we can file under "B" until such provider described in "A" enters the market. The argument has been made that such provider is anyone. As we have said, we wouldn't know when someone seeks to enter the market what they might develop in the future. But the important point is that interexchange carriers under that reading have the ability to block us from the market, which is exactly what Congress wanted to prohibit. I would just mention that we asked Representative Tauzin, who wrote the very language that we have in mind here. He said Subparagraph B uses there words "such provider" to refer back to

the exclusively or predominately facilities-based provider described in Subparagraph A. So that is someone who is actually made the investment to enter the net, enter the local market. What that means is that long distance and local competition will proceed side by side, rather than having long distance held back without any guarantee of actual local entry, which is what our opponents in the case would suggest.

Checklist compliance. We set out in our Brief fairly extensively how we think we satisfied the 14 points of the checklist, and I am not going to repeat that here.

I just want to address a couple of broad issues that have been raised. The first is whether , if we proceed under the so-called "A Track, that is, under (c)(1)(A), we need to show that some competitors are actually taking every checklist element. That is a major theme of closing comments.

The requirement of the statute, as you know, is that we must provide a network access. Now "provide" itself does not mean sell. It means, make available. That is one of the dictionary definitions. It is also common ordinary usage. If I invite you to my house for a party and I say drinks will be provided, it doesn't mean that you are going to take one, it doesn't mean that anybody is going to have a drink. I have provided drinks whether or not someone chooses to take them.

Access also is not the same as a sale of facilities and services. We must provide access. We provide access when we

give carriers a contractual right to obtain the services through an interconnection agreement or through the STC. That is exactly what we have done. So we are providing interconnection to Brooks Fiber. We are providing network access to Brooks Fiber through its interconnection agreement, as well as through the STC.

Representative Paxton, a federal legislator, said just before the passage of the Act, "There is no requirement for a competitor to actually furnish every checklist item." That's at 142 Cong. Rec. EE261 (February 1, 1996). His position also is the only one that makes any sense. If we are required to show that a competitor takes every checklist item, then if you had, let's say, 4, 5, 6 delivered on local networks where we have what would be inarguably greater competition than we have long-distance market, we would be unable to enter the long-distance market because they wouldn't need anything from Southwestern Bell. They just simply wouldn't need to take anything from us.

Similarly, look across the country. Competitors generally are not taking local switching. They are typically providing their own switching. So you have competitors entering with their own switches we would be then be short that checklist element no matter how many customers they sign up and how much market share we have lost.

Another argument that is made against us is that we can't rely on both our agreements and the FCC. As I said. We

satisfied a checklist under our agreements or under the FCC. So it is not necessary that we mix and match them. That said, Congress intended that where you have services that competitors who actually have entered the local market don't want, you would be able to use an STC or a general offer to fulfill that checklist item. They foresaw exactly this issue, that a competitor would come into the market but not want every checklist item.

Representative Paxon again at the same cite I gave you, 142 Cong. Rec. EE261(February 1, 1996), a couple of days before enactment of the Act, said that where a competitor doesn't want a particular item, you can hold it out of your offering and satisfy your checklist offering that way. This also fits with common sense. Since the STC is just as much available to any local competitor as are the terms of an agreement, as you know interconnection agreements that are approved by the Commission must be made available to all local competitors.

The Brooks Fiber Agreement says that Brooks has access to the terms of other OCC approved agreements. This is also the federal law 251(i), I believe it is. 252(i) guarantees that. So these agreements are available in just the same way that the FCC is. And there is no reason why a carrier can't fully avail itself of either. We have explained in our Brief how that is done.

Pricing is another issue that has come up in the debates.

The resale discount in the STC was 19.8 percent taken from the arbitration. That is for unbundled elements. There has been criticism that the rates are interim. But that doesn't mean that they are not cost based in accordance with the Act. And that is the basic requirement of the Act.

The rates came in large part from the AT&T arbitration where Southwestern Bell sponsored testimony explaining the basis for those rates, the testimony of Jean Springfield. The rates are based on cost studies which are available to the Commission and AT&T. In some cases, they are based on tariff rates which have been allowed to go into effect by this Commission and the FCC for rates negotiated in a few cases with other local carriers at arm's length and filed with the Commission. The rates are subject to true up.

We have an independent basis for thinking that they are reasonable, and it is that Sprint, who is certainly a sophisticated carrier and certainly would be on the lookout for rates that are not in compliance with the Act, who has accepted those rates and incorporated them into its negotiated agreement with Southwestern Bell.

I find there is just no requirement in the Act that we carry out a cost proceeding before we can show our 271 clients. It just simply is not there and it doesn't fit with Congress' belief that we can enter the long-distance market almost immediately upon passage of the Act, certainly through the "A"

track. We cited Senator Brough (phonetic) who said in those cases where you have a state approved agreement, the FCC should act almost immediately in favor of it, and the company can be right into long distance without unnecessary delay. That just couldn't be the case if full cost proceedings were necessary.

OSS has also been an issue that has been addressed by our opponents. I just want to step back and explain what our duty is with respect to OSS. Southwestern Bell is required under the FCC rules to provide competitors access to functions and capabilities that it uses in processing its own retail transactions for its own regional customers for such think as billing, ordering, prebilling, maintenance and repair. The access to those systems in place now. It is ready to go. Anyone who wants to connect electronically or manually can do so right now. I don't think there is much of any dispute about that question.

All of the disputes that have been raised have to do with a separate issue, which is development of the new OSS capabilities which are requested by our local competitors. These are capabilities which the AT&T testimony that was submitted to you, stresses--and some are very complicated--the required coordination between the carriers. That is exactly what we are doing. We are working with AT&T and others to do it. We are cooperating with AT&T on testing. We are developing new capabilities that in some cases go beyond any national standard

which exists. There are no standards for some of this new technology. These fall into the category of the technically feasible unbundling, which is something that we will be providing for years to come. We will be receiving requests for things that we have never provided and will fulfill them, where technically feasible, as soon as we can. But there is no requirement that we can fulfill outstanding request before you can get into long distance.

We have met the basic parity requirement, which is, all the systems used by our own personnel are available to others, and if there are any questions about the capacity, it is, of course, hard to predict what the demand will be because people aren't using them. It doesn't have anything to do with Southwestern Bell. It is entirely a business decision on our competitors' part. The important thing to know is that the same systems will be used. So if there is a crash, our services go down for the same time and for just as long as our competitors. So we have a direct interest in being sure that these systems work. We are processing our own transactions off of these various systems. In that regard, they are tested. We have been running thousands of transactions a day over some systems. So these are now a new system. They are working now and they have been for years.

There has also been an argument that we need an agreement with AT&T before we can get into more businesses. There is no requirement in the Act that we have an agreement with our

competitor, and, in particular the largest long distance company does not have a veto over entry into its market.

We do have an agreement with Sprint. To the extent that we are looking at large competitors, we have entered into agreements. With respect to AT&T, we have been negotiating in good faith with AT&T for months to reach resolution. Discussions are now underway to develop a schedule that we think will allow for resolution of the outstanding issues with AT&T. We hope to submit that shortly.

The very last point I would like to address is this argument that we need to keep Southwestern Bell out of long distance so that we will have a carrot to dangle in front of it to comply with the Act.

Again, this is just an effort to circumvent the specific statutory criteria for entry that Congress established in 271(c). If it were considered at all, it would have to be through a public interest analysis that the FCC would perform. It couldn't possibly fit within (c), so it is not part of the analysis that this Commission will be asked to make.

But finally, we think it is just wrong. If this proceeding shows anything, it is that long-distance carriers are the local competitors. This Commission, the FCC, the Department of Justice are all going to be vigilant in monitoring our compliance with 251 and 252 of the local entry provisions. That is exactly what Congress expected. That is why Congress allowed

us to enter the long-distance business to open the local market to competition. It said, We should allow competitors equal opportunity to enter; not wait until local companies have given up market shares before they can get into long-distance.

That is our basis for believing that we have satisfied all of the entry criteria. We think the application should be granted at the federal level and that this Commission should recognize that we have proved that we have satisfied all of the requirements of 271(c) and that the application should be approved for the benefit of Oklahoma consumers and to open all markets.

Thank you.

THE COURT: Thank you.

MS. LaVALLE: Your Honor, to focus my comments and to hopefully move things along, I prepared a handout which I will use in my presentation.

Your Honor, the Southwestern Bell Oklahoma 271 Application makes sense only when viewed as a trial balloon. And it is a trial balloon, frankly, which appears to be designed to test the lower limits of Section 271 compliance.

The reason AT&T believes that even Southwestern Bell intended its filing as a trial balloon is that, frankly, we can come up with no other explanation for the filing before the FCC at this time in the face of what we believe is overwhelming evidence of a failure to comply with Section 271.

The purpose of my brief statement this morning, Your Honor, will be to show why it is that that trial balloon never leaves the ground. The first two requirements I want to focus on I will refer to as the local competition requirement; then secondly, the competitive checklist requirement.

As to the first issue, local competition, facilities-based competition is not where it needs to be today in Oklahoma. It is not where it needs to be for the sake of Oklahoma citizens, and it certainly is not where it needs to be in order to entitle Southwestern Bell to interLATA relief under the specific issues of 271. Secondly, Southwestern bell is not where it needs to be in order to satisfy the competitive checklist.

I want to start with the threshold question that was addressed in the Southwestern Bell comments; that is, why it is that AT&T, and it appears others as well, believes this is a Track "A" proceeding? The best way to answer that question is to talk about why it is that Track "B" is foreclosed.

An incumbent local exchange carrier ends up on Track "B" really because of lack of interest, lack of interest by a facilities based competitor in being able to bring facilities based competition to the state. What Track "B" means is that either there has been no request for interconnection, which obviously is not the case here, or there has not been a request from anyone who intends to provide facilities-based competition. So because of this lack of interest, so to speak, in launching

the most effective kind of challenge to a bottleneck monopoly status of the incumbent, Congress had to come up with some alternative test that would allow that incumbent to get into the interexchange market. And that is what Track "B" is all about.

What happens when, for some reason, there is no alternative source of facilities-based local service? That is, frankly, disappointing. Why is it disappointing when that happens? Because, as we noted in the prefiled testimony of Mr. Stephen Turner, the Act is banking a lot on, it is putting a great deal of the promise of the Federal Act behind the promise of facilities-based competition. There is nothing like knowing that your long-time customer has some place else to go. That knowledge leads to lower prices and it expands consumer choices. That is the promise of competition and, more particularly as we can see in the legislative history, the promise of facilities-based competition.

I mentioned that it is disappointing when the state doesn't have vying to be facilities-based competitors. Well, the good news, Your Honor, is that is not the situation in the State of Oklahoma. Not by a long shot. Oklahoma has new entrants who want to compete with facilities-based capability. I want to review very briefly what that means in terms of the 271 Application. What questions in particular does it make irrelevant.

The first question I want to start with in talking about

whether or not it even needs to be addressed is: What kind of request and what kind of requester forecloses Track "B" and commits a carrier to Track "A" with all of the implications that necessarily follow from being on Track "A"?

Frankly, in Oklahoma you have had every kind of request from every kind of requester. You have Cox Communications who argues in its comments that it runs facilities to 95 percent of the residents in Oklahoma City. It offers that it has the promise of both business and residential service.

Oklahoma has Brooks. Brooks has requested an interconnection and Southwestern Bell represents in its comments before the Commission that Brooks is a qualifying requesting local exchange carrier with whom it has an approved interconnection agreement. We all seem to agree, I believe, that Brooks is clearly a qualified requesting competitor for purposes of foreclosing Track "B".

Oklahoma also has other qualified requesting carriers as well, all of those additional carriers including AT&T made timely requests. They were made more than three months prior to Southwestern Bell's filing with the FCC.

The second question that is really, frankly, under the circumstances of this case and this state, largely irrelevant, is the question: Is Brooks Fiber offering quantitatively and geographically enough facilities-based competition to entitle Southwestern Bell to satisfy the local competition requirement

of the Act? At last count it had 20 business customers, only 8 of whom it was serving over its own network.

The threshold or controlling point here that makes these questions about numbers and geography largely not entirely irrelevant is that Brooks is not currently offering residential service in Oklahoma. It had four residential customers. All are employees. These are customers for whom it is providing residential service but it does so only on a resale basis. That is undisputed in the evidence that is before the Commission at this point. Not only are these customers--if you want to call them customers--being served only on a resale basis, but it is only on a test basis. So there is no commercial offering where they have actually signed up residential customers and certainly not on facilities that are their own. And that, frankly, is just not enough to satisfy the Act.

Southwestern Bell has to show that it is providing access and interconnection to a facilities-based competing provider, and that facilities-based competitor has to be offering business and residential service indisputably. That is not the case with Brooks Fiber.

I have been concentrating on the local competition requirement. I want to move now to the competitive checklist requirement and the applicable controlling language. In my handout I have isolated for you the language which surprisingly not mentioned. I refer to Southwestern Bell's opening

comments, Section 271(b)(3).

What Section 271(b)(3) tells us is that in addition to other requirement, the Applicant must show that it has either fully implemented the competitive checklist for a Track "A" filing or that it has offered terms included on the competitive checklist in the case of a Track "B" filing. What Southwestern Bell tells us in its comments appear to be in the case of a Track "B" filing.

Southwestern Bell's position in its comments appear to be that it has an absolute election. It has an option whether or not to satisfy the competitive checklist either by showing full implementation--actually it doesn't use that term, it really refers to something much less--which is saying it is available for sale, or it says it also has the option of just pointing to a term in its SGAT, in it's Statement of Generally Available Terms, and saying that it is in some sense theoretically offered.

I guess it leads one to the natural question of why it is Congress would have set up two alternative ways of satisfying the competitive checklist? Why bother with the full implementation provision if the incumbent LEC could always just come in and say, Hey, I've got it in my SGAT; it is theoretically being offered.

The logic Southwestern Bell relies upon largely is, how can you expect an incumbent local exchange carrier to show

implementation of a competitive checklist if there is no one collectively or individually who wants the items on the competitive checklist? Which brings us to get a third question in these proceedings that doesn't need to be reached; that is, the very, very theoretical question of: What happens is no one out there, no single competitor, no collection of new entrants, wants what's on the competitive checklist? What's an incumbent local exchange carrier to do? Really, there are two answers.

First, the question doesn't even get raised in Oklahoma. And why is that? Because all of the items on the competitive checklist have been requested--by AT&T alone and also by others. I think you can safely say that new entrants like AT&T and others are providing more opportunity than Southwestern Bell needs to show and demonstrate its capability to deliver the competitive checklist.

Secondly, if it is on the competitive checklist and there is someone out there that wants it, why should Oklahoma settle for an abstract contract terms. What possible good can come from saying that we just want to see whether the words are contained, those words being subject to interpretation. Those words not having been tested for actual provisioning. What is the advantage to Oklahoma of settling for that rather than delivered performance demonstrated capability and stress tested capacity. Don't we want to make sure it works before the 271 application is granted? And that message of wanting to make

sure it works brings me to my next chart, which is message that came out of a recent speech by Joel Klein of the Justice Department.

I am not going to read the entire quote, but it says in essence, Gee, we know there are going to be a lot of bugs that will need to be worked out in making this transition and having an incumbent local exchange carrier make its facilities available. We know that even in the best of circumstances and with the best of intentions, there are going to be problems. And he says that rather, using a metaphor that I have become quite fond of, "we just want to make sure gas actually can flow through the pipeline and the best way to do that is to see it happen."

Well, we haven't seen gas flowing through the pipeline in Oklahoma, Your Honor. There has not been a single provision of a single unbundled network element, not a single unbundled look has been purchased. So we just don't know whether the gas can flow through the pipeline. Southwestern Bell has not just the opportunity but the obligation in Oklahoma to demonstrate real work capability. Why settle for paper promises rather than performance. And in particular, why rely on contract terms when there has actually been in instances an unsatisfactory response to an actual request. And I refer you here to the experiences being related in the prefiled testimony of the difficulties interim number portability, for example. Co-location is another

example. In the comments of Cox Communications, it complains about number assignment. Why would we look at contract terms when we have actual testaments from those who have made requests and who are not satisfied with the response.

We hate to be among those calling attention to what is missing, but that is what the Act demands. Partial compliance with the competitive checklist is not an option. If Southwestern Bell fails to comply and show that it is not providing even a single checklist item, recommendation has to be against intraLATA relief. And here is a list of what is missing, and, unfortunately, it is long. And rather than steal the thunder of the opening statements of the three witnesses that we brought with us here today, Your Honor, and in recognition of the fact that I know you have read what has been put before you in the parties' filings, I thought I would just touch on a few examples of what is missing in the competitive checklist. And to do that, I want to rely on--and this is the next chart in your package, a series of what I refer to as the words you hate to hear. These are illustration of our concerns, our feelings of frustration at where we are in Oklahoma today.

The first two I am going to discuss together. What do you hate to hear? I hate to hear "Not yet available," or, worse yet, "sold out." And what does this describe? Unfortunately it accurately describes where we are with OSS today, with Southwestern Bell in the State of Oklahoma. As described more

fully in the prefiled testimony of Nancy Dalton, the reason that electronic interfaces are somewhere in between "Not yet available" and "Sold out" is that we are at a very early stage. And if I can refer you back to the next chart, this is the seven steps of development of OSS systems, and indicates where we are on those charts. And unfortunately, what you can see is that we are very much in the early stages.

We simultaneously though are worried about being "Sold out." And why is that? Because we are very much concerned that without demonstrated capability, without stress testing those systems, we are going find that when we get the kind of volume we hope will come from competition, we are going to find that those systems cannot handle that volume. And that is a concern which has arisen in other states as well, as mentioned in the prefiled testimony.

What is the next phrase we hate to hear? "Out of service." This dreaded phrase captures at least two concerns present in this record day. First, as it is presented in the joint statement of Bob Falcone and Steve Turner on behalf of AT&T, Southwestern Bell has announced its plan to treat every order of an unbundled network element as a request for what is called design service. And I am not going to go into all of the ramifications of a decision like that, which clearly does not appear to be based on any technical feasibility argument, but the one I do want to single out here for the purposes of these

remarks is the fact that it is undisputed that that will mean that that position taken by Southwestern Bell to treat this plain old telephone service even if that doesn't change from the customer's perspective, to suddenly treat that as a request for design service, that means the customer service is going to be interrupted. No interruption is a good interruption.

Second, this "Out of Service" remark applies equally well to the experience that Brooks Fiber has related in terms of interim number portability where reports that with virtually all of the 12 customers it has tried out interim number portability with, they have had problems--in some cases resulting in outages for up to several hours. "Out of Service" is not something any of us wants our customers to hear.

The next phrases are "Parts Sold Separately" and "Some Assembly Required." These two phrases both address the issue of Southwestern Bell adding new rate elements and adding nonrecurring charges, including the imposition now of a cross-connect charges throughout its network. So when you thought when you bought the element you would get access to that element, we are now finding that there are separate cross-connect charges being added, as described in the testimony of Bob Falcone and Steve Turner.

"Batteries not Included" describes Southwestern Bell's position, for example, that when you buy a feature you pay the price of the feature, but now we are going to be charged

something called a feature activation charge. We would have thought if you bought the feature, you bought it in a functioning capacity.

"Not Yet Available In All Areas." This point addresses the issue that was again raised in the joint statement of Robert Falcone and Stephen Turner, and that is the fact that when a competing local exchange carrier places an order for an unbundled local loop, Southwestern Bell reserves the right for up to a period of 48 hours to tell you that the loop is not going to be made available. And they say that they need to be able to do that because of difficulty with certain customers being served on an IDLC, integrated digital loop carrier, basis. Well, the problem there, of course, is that as a new entrant, having to go back to a customer that you just recently won over and telling them two days later,"I'm sorry, I can't deliver the service that we promised," is going to put us at a competitive disadvantage.

Another phrase that I have included under the words you hate to hear is "Prices Subject to Change Without Notice." This addresses the fact that none of the prices being offered by Southwestern Bell has been determined to be cost based. Southwestern Bell mentioned in its opening comments that the Act doesn't require permanent pricing. Well, that's not the point. The Act does require a determination that the prices are cost based, and that determination, as Your Honor knows, has not yet

been made in this state. This is true not just for the unbundled network element prices, but of the prices in the area of, for example, reciprocal compensation as discussed in the testimony of Phillip Gaddy.

This notion of uncertainty as to price, combined with the uncertainty as to scheduling to bear directly on the subject of co-location which is integral to the very first competitive checklist item, interconnection. From the record as sampled here today, it is clear that uncertainty as to the cost and the process time of co-location request is a significant threat to competition. And that is discussed in the testimony of Steven Turner.

I want to make one comment, Your Honor, about where we stand today from an evidentiary standpoint in terms of this particular proceeding at the state level with Southwestern Bell not having offered a single witness for cross-examination and not having submitted in compliance with the procedural schedule, any sworn testimony through any live witness. By choosing to file unsworn party comments which, under this Commission's rules, means that those comments can mean no more than argument and not be included or accepted as proof of any recitation of facts cited therein, Southwestern Bell has a total absence of proof on any issue that involves a factual dispute.

Here on the record assembled before this proceeding, it is clear that Southwestern Bell has not shown that it meets local